

Determinations of Eligibility and Effect for 21 Stone Feature Sites Within the Proposed Dakota, Minnesota & Eastern Railroad Corporation's Powder River Basin Expansion Project Corridor, Campbell and Converse Counties, Wyoming. Finance Docket 33407

Forest Service Comments to STB. 10 Dec 2011 Ian Ritchie

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General Comments:

1. Eligibility:
 - a. The information provided by the tribes and updated site forms are greatly appreciated.
 - b. We are still not completely able to follow many of the determinations of eligibility and would like the arguments for eligibility to be more explicit. Each criterion should have its own discussion. For example, eligibility depends on association with an important historic context as well as retaining the integrity of the features needed to convey that association. Some descriptions in the report list features found at the site and a general statement of the association, but seem to lack placing sites in context or the discussion of integrity and the ability of the site elements to convey the site's significance.
 - c. In the discussions of Adverse Effects, there should be some discussion of both the direct and indirect effects and how they'll affect site integrity for each criterion the site is considered eligible.
 - d. Criterion D: magnetometer inventory will probably provide support for sites to be eligible under Criterion D, due to the fact that it locates intact hearth deposits that were excavated into still extant landforms although the current surface is mixed. For example our previous comments on the earlier version of the report:

Several sites were tested in the past and showed no buried deposits. We have recommended that key landforms be tested with magnetometer for while they may not contain buried living surfaces, they may indeed contain buried hearth features with Criterion D information. Several of these 21 sites are appropriate for magnetometer testing/mapping as we have previously requested.

2. Further work needed for several of these 21 sites
 - a. Our concern is that there is follow up work needed by archaeologists and tribes on many of these 21 sites. The site visits were undertaken as consultation and many new features and artifacts were found on sites, particularly in Wyoming (page 1). The field review was not intended for site recording and based on field notes, not all new features noted in the field visits were recorded. For example, during the consultation visits, rock art inscriptions were found in 48CA1490/CO726, but are not reported in the site forms or report. Tribal comments also support complete recording (page 8 under 48CA98).
 - b. Rock art recording. For example 48CA1862 has two prehistoric and at least one large historic rock art panels. Only a couple of photographs are shown on the site form and neither has drawings to show what they depict, some inscriptions are not depicted at all. Likewise, 48CA3781 has reported prehistoric rock art panels, but there are not drawings or sketches of the inscription. It is very difficult sometimes to comprehend panels without drawings to show the inscriptions. There needs to be complete recording of all rock art related to sites in this project. Also, the rock art needs to be described in the site forms, and discussed in site eligibility statements.

Site Specific Comments:

- a. One new large site was located during the field visits – 48CA7083. This site has yet to be recorded and evaluated. I'm attaching some updated information about the site. Inventory work is not complete for this project.
- b. 48CA 5490 – This site is listed as Criterion D, potentially eligible prehistoric component (page 29). The more accurate term is “unevaluated”, rather than ‘potentially eligible’. To help resolve Criterion D eligibility, magnetometer work might be one tool to use.
- c. 48CA97 – recommend that the additional survey and recording is done prior to evaluating the site. The purpose of the site visit was consultation and the site was not fully recorded.
- d. 48CA3781 – The Historic component is listed as Criterion D eligible. The integrity of the historic component and the eligibility argument are not presented in this report. What are the features, what is their integrity and how do they demonstrate the significance of the site under Criterion D?
- e. Wyoming State reporting standards: Site sketch maps are not in the report and are a required feature.
- f. Some of the color maps showing how the railroad crosses the sites are very pixilated – perhaps dropping the photo background or using topography as a background would be more useful to represent the sites.

Summary:

Most of our previous comments do not appear to have been addressed in the report. The Forest Service cannot currently concur with the determinations until the items are resolved and the eligibility determinations and the project effects are more clearly laid out.

Other DME Project Work Pending

In previous meetings the proponent has presented that they anticipate tight timeframes for completing cultural resources work tied to resolving adverse effects of the project. However, there are ongoing tasks that need to be accomplished. If tight timeframes are on the horizon, we have not seen the efforts to undertake work that will help this project meet those tight timeframes. For example, the new site found in 2009 has yet to be recorded, and there are other sites along the route with unresolved eligibility. We still think follow up archaeology work in site recording and evaluation, based on the 2009 tribal consultation visits, is still warranted. Also, the development of a more final version of the deeply buried sites strategy, indirect effects to sites outside the direct impact but inside the APE as well as the geomorphology effort both appear to be at a standstill. With little or no recent or current action on outstanding items it will be difficult meet tight timelines in the future.